

**Clean Ocean Action + Hackensack Riverkeeper
Ironbound Community Corporation + NRDC + NY/NJ Baykeeper**

December 19, 2008

Elizabeth Butler, Project Manager
Passaic River Team
US Environmental Protection Agency
290 Broadway, 19th Floor
New York, NY 10007-1866

Dear Ms. Butler:

Please accept the following comments on the Lower Passaic River Proposed Plan and Phase I Engineering Evaluation/Cost Analysis (EE/CA) on behalf of Clean Ocean Action, Hackensack Riverkeeper, Ironbound Community Corporation, NY/NJ Baykeeper and Natural Resources Defense Council.

We understand that the Environmental Protection Agency (EPA) is requesting comments on the four proposed options for the sediment removal and processing, but since this is the first time in recent history that the EPA is accepting formal public comment on the Lower Passaic Superfund site we felt obligated to include comments that look forward to anticipated agency actions. It is our hope that by identifying these critical areas of concern early in the process we can avoid problems later on when it is deemed too late to correct them.

Proposed Plan/Environmental Engineering/Cost Analysis (EE/CA)

Under the "Removal Action Objectives" section the use of the phrase "to the extent practicable" implies a weak standard that could be undermined by undue consideration of cost. Preventing the migration of resuspended sediment during removal operations and the potential for spillage or leakage of sediment and contaminants during transport to the disposal facility should be imperative. We suggest that the "Removal Action Objectives" be changed to eliminate the phrase "to the extent practicable" and/or replace it with the phrase "to the maximum extent possible".

The Plan and EE/CA state that the area to be dredged has "little or no" submerged aquatic vegetation (SAV). In areas where there is existing SAV, Tierra should be required to restore the habitat as part of the remediation process.

Local Hires

One concern that we wish to raise now will be a constant throughout the Passaic River clean-up. When we combine the Tierra Action, Phase 1 and 2, with Focused Feasibility Study (FFS) that includes the lower 8 miles of the River and finally the Comprehensive Study of the lower 17 miles, the question of local hiring throughout this process takes on great significance. We are probably looking at work that will continue for more than a dozen years.

In each of these three projects, work crews will be brought in to conduct the clean-up and the community, in a certain sense, will have the River returned to them. An additional way of including the community in this process is to ensure that priority be given to hiring Newark residents.

We understand the technical nature of these clean-ups and recognize that a number of skilled and experienced workers will be required. On the other hand, all projects require the support of less skilled workers who will carry out their responsibilities with commitment and competence. The community would like to see a commitment made now that each phase of this project will actively recruit local personnel, where possible.

We raise this concern at the outset because often once a process is underway without local residents in the workforce, there never seems to be a way to rectify the situation. Making a commitment to local hires upfront would thus be an expression of good will toward the community that has lived with dioxin contamination for so long. It would also provide an opportunity for early identification of the kinds of workers that might be drawn from the community.

Community Health and Safety Plan

The Remedial Action Community Health and Safety Plan prepared by General Electric Company in March of 2006, as part of the Phase I Final Design Report Hudson River PCBs Superfund Site, aims to “describe potential risks and impacts to members of the local community and to identify steps that the (company) and its contractors will take to prevent and respond to them.”

This basic approach should be incorporated in the submission prepared by Tierra Solutions and reviewed by EPA and the Ironbound Community and other stakeholders. This approach includes the following, as outlined in the GE Hudson River document:

- First, identify and evaluate potential hazards and community impacts which, absent preventive measures, could realistically occur during work activities;
- Second, evaluate “preventive measures” that could be put in place before the project begins and during activities to reduce the potential for hazards and impacts to occur. This evaluation included the use of modeling to predict some possible impacts (e.g., noise and air emissions).
- Third, develop response actions and procedures that could be taken in the event hazards or community impacts occur.
- Finally, identify some “mitigation” or additional preventive measures that could be implemented in the event an accident, injury or severe impact occurs. If an incident does occur, GE will evaluate its cause to develop specific mitigation measures to prevent a recurrence.

The Community’s primary concerns relate to health of safety of residents and of workers involved in the remediation. Within this context, a number of specific items are of importance:

- Project Schedule and Hours
 1. How many days a week are involved?
 2. What are the hours of operation?
- Quality of Life Standards during the remediation, including actions if standards are exceeded in the following areas:
 1. Air Quality (including dust)
 2. Odors
 3. Noise
 4. Lighting
- Assessment and Management of Potential Hazards Related to
 1. Dredging and other in-River activities
 2. Potential Hazards related to the Operation of the Dewatering Plant
- Project Health and Safety for Personnel
- Reporting and Response, Emergency Response. There needs to be a clear chain of command for timely information on potential problems associated with spills and releases
- Actions to Address Resuspension Performance Standards and Other In-Water Quality Requirements. The question of resuspension is of particular concern to the Community. As mentioned above, any language in the Plan or EE/CA that limits the EPA's ability to require the best possible methods for reducing spillage and resuspension should be replaced.
- Meaningful opportunity for review and comment of the complete CHASP should be given to the community prior to acceptance by the EPA.

Ongoing Public Participation

We intend to provide further comments separately, in the near future, on the November 2008 draft of the Community Involvement Plan (CIP) for the Passaic River Contaminated Sediment Removal Project. The most immediate priority for public participation, as noted above, is to ensure a meaningful opportunity for involvement in the development of the CHASP.

Additional Concerns

Additional concerns raised by community members during the public meeting, while not the subject of this current request for public comment, warrant mention again:

- The integrity of the current bulkhead in place at the Tierra Solutions site and the impact of placing sheet metal walls for the removal project in close proximity to the bulkhead.
- The location of the upland processing site and its proximity and impact to nearby communities.

- The final disposal site and transport of the dredged material.
- Hydrology impacts with the design and building of the sheet-pile enclosure. Suggestions were made to design the enclosure with narrowing ends, like a canoe-shape, to help mitigate against hydrology impacts.
- The final condition and remediation of the upland processing site. As you are aware, many of potential upland processing sites themselves are contaminated. It is anticipated that any closure of the upland processing site would include a complete remediation of the site.

Thank you for this opportunity to comment on the proposed Plan and EE/CA for the Lower Passaic River – Phase I Removal. While this is a significant first step in the remediation of the River, we continue to urge the EPA to quickly move forward with the complete cleanup of both the River and Newark Bay.

Sincerely,

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Ironbound Community Corporation

Lawrence Levine
NRDC

Deborah Mans
NY/NJ Baykeeper

Capt. Bill Sheehan
Hackensack Riverkeeper

Cynthia Zipf
Clean Ocean Action

cc: Regional Administrator, Alan Steinberg, USEPA, Region 2
Ray Basso, EPA, Region 2
Dave Kluesner, EPA, Region 2
Janine MacGregor, NJDEP, Site Remediation